

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

FELIX W. FESMIRE,

Petitioner,

v.

GREG PROVINCE, Warden,

Respondent.

Case No. CIV-05-288-RAW

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**ORDER**

On January 8, 2008, Magistrate Judge Kimberly E. West filed a Report and Recommendation, recommending that this action (commenced by Petitioner's filing of a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241) be dismissed without prejudice for failure to exhaust state court remedies. Petitioner filed an Objection on January 15, 2008. The Court has conducted the de novo review required by 28 U.S.C. § 636(b) of "those portions of the report or specified findings or recommendations to which objection is made." Upon such review, the Court finds that the Magistrate Judge's Report and Recommendation is well-supported by the evidence and the prevailing legal authority. As a result, Petitioner's objections to the Report and Recommendation are overruled.

Accordingly, the Report and Recommendation of United States Magistrate Judge West is hereby AFFIRMED and ADOPTED as this Court's Findings and Order. Petitioner's petition pursuant to 28 U.S.C. § 2241 is hereby DISMISSED without prejudice.

IT IS SO ORDERED this 29th day of January, 2008.

**Dated this 29<sup>th</sup> Day of January 2008.**

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Ronald A. White  
United States District Judge  
Eastern District of Oklahoma